

**Federal Defenders
OF NEW YORK, INC.**

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February 15, 2023

Via ECF

The Honorable Vernon S. Broderick
United States District Judge
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, NY 10007

**APPLICATION GRANTED
SO ORDERED**

VERNON S. BRODERICK

U.S.D.J. 02/16/2023

The parties shall email my chambers by February 16, 2023 to inform me whether they intend to present the revised plea agreement during Friday's conference or whether the conference should be adjourned.

**Re: *United States v. Pruden,*
21 Cr. 358 (VSB)**

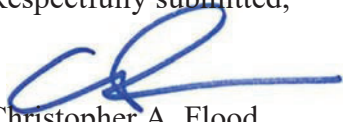
Honorable Judge Broderick:

With the consent of the Government, I write to respectfully request that the Court allow Defendant Robert Pruden to withdraw his plea of guilty, entered on August 19, 2022, pursuant to Federal Rule of Criminal Procedure 11(d)(2)(B).

"[A] defendant may 'withdraw a plea of guilty or nolo contendere after the court accepts the plea, but before it imposes sentence if the defendant can show a fair and just reason for requesting the withdrawal.'" *United States v. Albarran*, 943 F.3d 106, 117 (2d Cir. 2019) (quoting Fed. R. Crim. P. 11(d)(2)(B)). Here, the parties agree that Mr. Pruden can withdraw his previously entered guilty plea for the "fair and just" reason that the parties will then be able to enter into a revised plea agreement in light of the new Department of Justice guidelines on crack and powder cocaine. *See* Additional Department Policies Regarding Charging, Pleas, and Sentencing in Drug Cases, Op. Att'y Gen. (Dec. 16, 2022). The parties anticipate that Mr. Pruden will enter a new plea forthwith based on a revised plea agreement.

Thank you for your attention to this matter.

Respectfully submitted,


Christopher A. Flood
Assistant Federal Defender
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cc: Elizabeth Espinosa, AUSA (by ECF)